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OCT 26 2022

SC Court of Appeals

Appellate Case No. 2019-000658

Glen K. LaConey ..... Appellant,

v.

State of South Carolina ..... Respondent.

PETITION FOR REHEARING OR RECONSIDERATION

Pursuant to Rule 242, SCACR, Appellant, by and through his Supplemental Memorandum in Support of Petition for Rehearing or Reconsideration, hereby petitions the court to reconsider its Order denying Appellant’s Petition for Writ of Certiorari. Good cause may be shown for the untimely filing of this petition as follows:

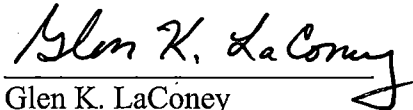
1) Appointed Counsel for Appellant prematurely abandoned the case and failed to timely notify Appellant of the court’s decision, as set forth in the supplemental memorandum.

2) Rule 242(c), SCACR, provides, in pertinent part, “A decision of the Court of Appeals is not final for the purpose of review by the Supreme Court until the petition for rehearing or reinstatement has been acted on by the Court of Appeals.” Appointed counsel for Appellant refused to file a petition for rehearing or reinstatement, to the prejudice of Appellant, and instead, advised Appellant to seek a federal habeas corpus action. Further, counsel neglected to advise Appellant that appeal to the South Carolina Supreme Court was a viable option.

Rather, counsel for Appellant provided Appellant with a copy of the relevant federal statute together with a federal pro se form, "Petition for Relief From a Conviction or Sentence By a Person in State Custody", which Appellant considers wholly inappropriate, on the basis that Appellant is not in state or federal custody. Counsel effectively abandoned Appellant's case, therefore, Appellant detrimentally relied upon the ineffective and defective assistance of counsel to properly dispose of the case and to preserve his appellate rights.

In view of the foregoing, Appellant submits that there is good cause for his untimely filing.

Respectfully submitted,



Glen K. LaConey  
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Columbia, SC 29202  
(803) 949-9604  
refundsplus@outlook.com  
Pro se

October 24, 2022

THE SOUTH CAROLINA COURT OF APPEALS

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Appellate Case No. 2019-000658

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Glen K. LaConey ..... Petitioner,

v.

State of South Carolina ..... Respondent.

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SUPPLEMENTAL MEMORANDUM IN SUPPORT  
OF  
PETITION FOR REHEARING OR RECONSIDERATION

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Glen K. LaConey (“Appellant”) submits this supplemental memorandum and exhibits in support of his pending Petition for Rehearing or Reconsideration (“Petition”).

**BACKGROUND**

In 2005, Appellant attempted to enforce a judgment, which was assigned to him from the judgment creditor. Richland County, Fifth Circuit Master-in-Equity, Joseph M. Strickland (“Strickland”) presided over the matter. After Strickland refused to order the judgment debtor to satisfy the judgment from non-exempt property, Appellant sought aid from Fifth Circuit Chief Administrative Judges Alison Renee Lee (“Lee”) and James R. Barber, III, (“Barber”) who advised Appellant that they would review the matter.

After failing to respond further, Appellant delivered additional transmittals to both Lee and Barber, after which Appellant was arrested in August 2011, for two counts of Harassment, Second Degree against Strickland, Lee, Barber and an unrelated Judge, DeAndrea G. Benjamin, with whom Appellant never had contact. The two arrest warrants contained identical language accusing Appellant of harassing all four judges simultaneously, in like manner. Additionally, Indictment Docket No. 2011-GS-40-05654 for Count 1 of Harassment, Second Degree recited, in pertinent part, that Appellant “knowingly and willfully, after being warned by law enforcement to cease and desist, did fax a message that was threatening in nature. The inappropriate contact initiated by the defendant has been a continuing behavior since January 2009 and has primarily been directed at the Honorable Allison (sic) Renee Lee, a Circuit Court judge. This was done in violation of §16-3-1700(B), of the South Carolina Code of Laws, 1976 as amended.” Indictment Docket No. 2011-GS-40-05655 for Count 2 of Harassment, Second Degree recited, in pertinent part, identical language that Appellant allegedly engaged against “Joseph Strickland, a Master-in-Equity judge”. [Judicial notice should be taken of the fact that §16-3-1700(B), of the South Carolina Code of Laws, 1976 as amended, refers to the charge of **Stalking**, not Harassment. Therefore, both indictments were **facially** and **fatally defective**. **Appellant invites the State to correct the defective indictments and retry the cases.**]

In July 2014, Appellant, after being denied counsel by Richland County, Fifth Circuit Judge Clifton B. Newman, and while under duress, pled nolo contendere to both charges of Harassment, Second Degree, under Alford v. North Carolina.

In June 2015, Appellant filed a Post-Conviction Relief action to dispose of his Alford pleas. Attorney David K. Allen, Esquire (“Allen”) was appointed to represent Appellant. An evidentiary hearing was convened in **February 2016** before Richland County, Fifth Circuit Judge J. Derham Cole (“Judge Cole”). Judge Cole, by his written Order, dismissed the matter with prejudice on **April 2, 2019**, without notice and without additional hearings on the matter. [It should be noted that Judge Cole noted in his Order that “[c]ounsel was not deficient in any manner, nor was Applicant prejudiced by his representation”, notwithstanding that Allen failed to contact Appellant and failed to take any action on the matter from **February 2016**, until **April 19, 2019**, when Allen filed notice of appeal.]

On or about **October 30, 2019**, appointed counsel, Susan B. Hackett, Esquire (“Hackett”) filed a Petition for Writ of Certiorari to the South Carolina Supreme Court, which transferred the case to this Court on **May 4, 2020**. After no substantive action from either Hackett or the court, the court issued its Order denying Appellant’s petition on **June 29, 2022**. Subsequently, Appellant forwarded several emails to Hackett relative to her untimely notice of the court’s decision, the inappropriateness of her proposed federal habeas corpus petition, and other matters. By her letter, dated September 22, 2022, Hackett responded and acknowledged only the matter pertaining to her untimely notice. [Appellant’s Exhibit “A”]

## ARGUMENTS

1. §16-3-1700(A), of the South Carolina Code of Laws, 1976, as amended, is the proper statute for the charge of Harassment, which recites, in pertinent part,

““Harassment” means a pattern of intentional, substantial, and unreasonable intrusion into the **private** life of a targeted person that causes the person and would cause a reasonable person in his position to suffer mental distress”. [Emphasis added].

2. Pursuant to §16-3-1700(A), of the South Carolina Code of Laws, 1976, as amended, “Harassment does not include words or conduct that are protected by the Constitution of this State or the United States”. Therefore, even if Appellant’s transmittals to the complaining judges were offensive, they could not and did not constitute “Harassment” to the extent that such transmittals were directed toward public officials for a **legitimate** purpose. The **proper** remedy for any such “harassment” would have been a contempt citation, which the complaining judges forfeited to their own perils. [Appellant reiterates that he had no contact whatsoever with Judge DeAndrea G. Benjamin; thereby, constituting **fraud upon the court.**] In the underlying matter, Appellant had directed all contact with the judges to their **official** capacities at their **official** addresses, and was related *only* to the judges’ **official** duties, not their “private” activities. Therefore, it was *statutorily impossible* for Appellant to “Harass” the complaining judges in their official capacities. And because Appellant was arrested and indicted for the **improper** charges of Harassment, when the indictments cited **improper** supporting authority, the trial court lacked subject-matter jurisdiction to appoint Appellant’s counsel and to adjudicate the underlying matter; thereby, **vitiating** the entire proceedings from the inception.

3. The Investigative Report of the Richland County Sheriff's Department cited the alleged victim as the entire Richland County Judicial Center. Therefore, as alleged victims, all public officials of the Richland County Judicial Center were disqualified and conflicted out of the matter, as were both the Richland County Fifth Circuit Solicitor's and Public Defender's Offices. The same conflict that applied to certain court officials likewise applied to all officials of the Richland County Judicial Center. Thus, as disqualified judicial officers, all actions of the presiding Richland County, Fifth Circuit judges were void and without binding effect. Additionally, the Richland County, Fifth Circuit Court lacked subject matter jurisdiction, based on the defective warrants and indictments.

In view of the foregoing, and because Appellant's arrests and Alford Pleas were based on utterly defective and invalid warrants and indictments; and, because all presiding judges of the Richland County, Fifth Circuit Court, as alleged victims, had **lost jurisdiction** to adjudicate the underlying charges of Harassment, all other matters relative to Appellant's initial petition for writ of certiorari are moot and are fruits of the poisoned tree.

Appellant challenges the State to refute the claims and defenses raised herein, and to prove for the record that Appellant was **properly** and **lawfully** arrested and indicted accordingly.

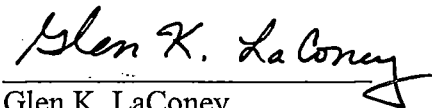
### CONCLUSION

It is imperative that This Honorable Court resolve these issues through plenary proceedings to prevent irreparable injury to the public interest, to maintain judicial integrity, and to maintain public trust in the judiciary.

**RELIEF SOUGHT**

In view of the foregoing, Appellant respectfully prays for an Order to vacate both indictments in the underlying matter and to remand the matter to an alternate Circuit venue for retrial.

Respectfully submitted,



Glen K. LaConey  
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refundsplus@outlook.com  
(803) 949-9604  
Pro se

October 24, 2022



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332

Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

June 30, 2022

Mr. Glen K. LaConey  
1427 Pickens Street  
Columbia, SC 29201

Re: Your case

Dear Mr. LaConey:

Enclosed is a copy of the Order of the Court of Appeals denying our Petition for Writ of Certiorari. This means that you have now exhausted your state court remedies.

There is now a **one-year statute of limitations for filing an application for a writ of habeas corpus in federal court**. However, please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future**. This statute of limitations is strictly enforced. I have enclosed a copy of the pertinent section of that statute for you to review. I am closing your file with this letter. Please understand that it is **your obligation alone** to ensure that a federal habeas application is timely filed if you want to continue challenging your conviction. Feel free to contact me if you have any questions, but writing to me **does not stay** the applicability of the statute of limitations. I do wish you the best in the future.

Sincerely,

*Susan B. Hackett*

Susan B. Hackett  
Appellate Defender

SBH/cws

Enclosures: Order  
Habeas Corpus Application

*Appellant's Exhibit A  
Page 1 of 5 pages skl*



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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 2, 2022

Mr. Glen K. LaConey  
PO Box 2673  
Columbia, SC 29202

Re: Your case

Dear Mr. LaConey:

Enclosed is the original closing letter which I mailed to you on June 30, 2022, as well as a copy of the order of the Court of Appeals and an application for federal habeas corpus. These were returned to our office as unable to forward.

Please feel free to contact our office if you have any questions.

Sincerely,

Chris Stock

Administrative Assistant

/cws  
Enclosures

Appellant's Exhibit A  
Page 2 of 5 pages. Mkl

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**From:** Glen LaConey  
**Sent:** Monday, October 3, 2022 1:20 PM  
**To:** Glen LaConey  
**Subject:** RE: [My] case

Ms. Hackett:

I am preparing my petition for writ of certiorari to the supreme court. Please clarify whether you, as my appointed counsel, are required to submit my petition for rehearing or reinstatement to the court of appeals, pursuant to Rule 242, SC Appellate Court Rules, prior to my pro se petition to the supreme court, to wit:

**(d) Content of Petition.** The petition for writ of certiorari shall contain the following:

**(1)** Certification by counsel for petitioner that a petition for rehearing or reinstatement was made and finally ruled on by the Court of Appeals.

If you are not required to do so, please timely advise, so I may proceed pro se. I believe failure of your office to timely notify me of the court's decision constitutes excusable neglect.

I await your prompt response.

Glen K. LaConey

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**From:** Glen LaConey  
**Sent:** Monday, September 19, 2022 5:17 PM  
**To:** Glen LaConey  
**Subject:** RE: [My] case

Incidentally, I noted that you declined to seek oral argument in the case. Is that significant?

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**From:** Glen LaConey  
**Sent:** Monday, September 19, 2022 4:50 PM  
**To:** shackett@sccid.sc.gov  
**Subject:** Re: [My] case

Ms. Hackett:

I have received your transmittal, dated September 2, 2022, concerning denial of my petition for writ of certiorari. Curiously, I have received numerous transmittals from you, addressed to my P.O. box; yet, you sent the final transmittal to an outdated address, notwithstanding that my current address is on file with the court.

*Appellant's Exhibit A  
Page 3 of 5 pages Sbl*

Nonetheless, with regard to your proposition that I file a petition for habeas corpus, isn't there a requirement that I currently be in *custody* before seeking habeas corpus relief?

Glen K. LaConey

Appellant's Exhibit A  
Page 4 of 5 Pages Gkl



# SCCID

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 22, 2022

Mr. Glen K. LaConey  
PO Box 2673  
Columbia, SC 29202

Re: Your case

Dear Mr. LaConey:

I received an email from you on September 19, 2022. In the email you complain that I sent a letter to you dated June 30, 2022, to the wrong address. I readily admit that I did so, and I apologize. The letter was returned to us on September 2, 2022, and we learned of our error on that date. Contemporaneously, we checked our files and discovered the correct address. We sent the letter immediately. Again, I apologize that we did not send the letter to the correct address on June 30, 2022.

Your email questioned whether there is a requirement that you be in custody prior to seeking habeas corpus relief. The "in custody" requirement has been interpreted by some courts to include when an individual is suffering penalties connected to the conviction that do not fit neatly within a usual understanding of "custody." For example, some courts have defined custody as including when an individual is on probation, parole, or supervised release. I know that your sentence was thirty days' imprisonment suspended upon time served with a recommendation of counsel and no contact orders, and that such a sentence is not traditionally included within the "in custody" requirement of federal habeas corpus. However, you may still be suffering the consequences of your sentence, such as the recommended counseling and no contact orders. Rather than decide for myself whether you satisfied the "in custody" requirement, I advised you of the possibility of pursuing federal habeas corpus relief so that you can make the decision for yourself.

Please feel free to contact our office if you have any questions.

Sincerely,

Susan B. Hackett  
Appellate Defender

Appellant's Exhibit A  
Page 5 of 5 pages  
skl

THE SOUTH CAROLINA COURT OF APPEALS

**RECEIVED**

Appellate Case No. 2019-000658

OCT 26 2022

**SC Court of Appeals**

Glen K. LaConey ..... Appellant,

v.

State of South Carolina ..... Respondent.

**CERTIFICATE OF SERVICE**

Glen K. LaConey, the undersigned Appellant, does hereby certify that on October 24, 2022, he did serve a complete copy of the within Petition for Rehearing or Reconsideration and Supplemental Memorandum in Support of Petition for Rehearing or Reconsideration on the State of South Carolina, via United States Postal Service, Certified Mail, Restricted Delivery, properly addressed as appears below:

Alan Wilson  
South Carolina Attorney General  
P.O. Box 11549  
Columbia, SC 29211

**USPS Certified Mail Article Number: 7021 0353 0001 4530 6375**

*Glen K. LaConey*

Glen K. LaConey  
P.O. Box 2673  
Columbia, South Carolina 29202  
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(803) 949-9604  
Pro se

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OCT 26 2022

SC Court of Appeals

Re: Appellate case No. 2019-000658  
Petition for Reconsideration

Dear clerk of Court of Appeals:

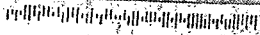
Enclosed please find my Petition for Reconsideration and supporting documents.

Please return a time-stamped copy in the reply envelope provided.

Best regards,

Glen K. LaConey

CERTIFIED MAIL



7021 0350 0001 4530 6429



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29211

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SC Court of Appeals

Clerk's Office  
SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

*SJ/26*